

REMARKS

This responds to the Office Action mailed on June 10, 2009.

Claims 1, 4, 8, 28, 32, 38, 41 and 45 are amended, claims 6-7, 16-27, 30, 43-44 and 53-64 are canceled, and no claims are added; as a result, claims 1-5, 8-15, 28-29, 31-42 and 45-52 are now pending in this application.

§103 Rejection of the Claims

Claims 1-5, 8, 9, 14, 15, 28, 29, 32-42, 45-46, 51 and 52 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent no. 6,161,099 to Harrington et al. (hereinafter “Harrington”) in view of U.S. Patent no. 5,905,975 to Ausubel (hereinafter Ausubel) in further view of U.S. PG-Pub no. 2005/0033648 to Jin et al. (hereinafter Jin)

Applicants respectfully submit that the rejection of the aforementioned claims under 35 U.S.C. § 103 is defective for the reason that the cited documents, even when combined as described, do not teach or suggest all of the claim limitations of the independent claims of the present application.

Applicable Law

In rejecting claims under 35 U.S.C. §103, the Examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. *See* M.P.E.P. §2142. Further, “[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness”¹

Argument

Applicants believe that the issue of patentability over the combination of Harrington in view of Ausubel further in view of Jin with regard to aforementioned claims is best understood with regard to the following limitation of claim 1 which has been rewritten to include a limitation from dependent claim 4.

¹ *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006). cited with approval in *KSR v Teleflex*, 127 S. Ct. 1727, 1740-41 (2007), 82 USPQ2d at 1396 (quoting Federal Circuit statement with approval).

Claim 1, as amended, includes the following limitation:

publishing....information regarding the financial instrument and an interest rate at which the financial instrument is offered, the information including a price of the financial instrument;

...the reducing of the published interest rate is performed automatically and responsive to a lack of bidding activity

The Final Office Action, in rejecting claim 1, contends the “*reducing*” action of claim 1 is taught / suggested by the following as related by Jin:

[0007] Falling-price systems drop the price of goods over time until they are sold. Buyers can commit to buy early, or wait for a lower price at the risk of losing the item. At least one such system allows a user to pay a premium to place firm bids for later days using a so-called buyer's agent. Like RFP systems, falling -price systems can allow sellers to provide the same goods to buyers who value them differently. But they can also be daunting to some buyers, who must thoroughly understand the value and demand for the item, or risk submitting bids that are too high.²

The above quote from Jin relates a falling price system. The falling price system drops the price of goods until they are sold. The method of claim 1 functions otherwise.

Amended claim 1 now requires “*publishing... information regarding [a] financial instrument and an interest rate at which the financial instrument is offered, the information including a price of the financial instrument*” and “*the reducing of the published interest rate ... performed automatically and responsive to a lack of bidding activity.*” Specifically, claim 1 requires both “*a price of the financial instrument*” and an “*interest rate at which the financial instrument is offered.*” In contrast, the above quote from Jin merely relates a price of goods that is dropped until goods are sold. To the point, the goods as related by Jin are not a “*financial instrument*” as required by claim 1 and, further, a price that is dropped, as related by Jin, is not the same as a “*reducing of the published interest rate,*” as recited by claim 1. To be sure, nowhere in the above quote does Jin relate “*an interest rate at which the financial instrument is offered*” much less a “*reducing of the published interest rate ... [that is] performed*

² Jin, paragraph 7.

automatically and responsive to a lack of bidding activity.” Jin merely relates a price that may be said to be analogous to the *price of the financial instrument*, as recited in claim 1, and such is not the *interest rate at which the financial instrument is offered*, as also recited in claim 1. Jin therefore cannot be said to teach or suggest the above quoted limitation because Jin relates a price of a good that is dropped until goods are sold and claim 1 recites *an interest rate at which the financial instrument is offered* [and] *a price of the financial instrument*” and *“the reducing of the published interest rate ... performed automatically and responsive to a lack of bidding activity.”* These are distinguishable actions.

Ausubel relates a computer implemented system and method of executing an auction including at least two intelligent systems, one for the auctioneer and at least one for a user.³ Ausubel also fails to disclose the above quoted limitation of amended claim 1. Accordingly, Ausubel cannot provide what Jin lacks.

Harrington relates an apparatus and process for conducting auctions, specifically municipal bond auctions, over electronic networks.⁴ The apparatus includes a bid preparation submission page.⁵ The bid preparation submission page is a form upon which a user may prepare and/or enter a bid. In Harrington, the user may enter a coupon and price, or yield for each principal maturity it wants to purchase. The user may utilize the bid preparation submission page to determine a purchase price based on a coupon and yield to maturity, determine a yield to maturity based on coupon and a purchase price or enter a bid. The user is deemed the leader of an auction if the user submits a bid resulting in a yield lower than the best yield. The method of claim 1 functions otherwise.

Claim 1 requires *“reducing of the published interest rate ... performed automatically and responsive to a lack of bidding activity.”* In contrast, Harrington merely relates a bid preparation submission page. Broadly speaking, the preparation of a bid cannot begin to suggest *“a lack of bidding activity,”* as required by claim 1. Harrington does relate a user that is deemed the leader of an auction if the user submits a bid resulting in a yield lower than the best yield⁶, but again, a submission of a bid cannot suggest *“a lack of bidding activity”* much less a *“reducing of a published interest rate [being] performed automatically and responsive to a lack of bidding*

³ Ausubel, Abstract.

⁴ Ausubel, Abstract.

⁵ Col. 6, lines 1-2.

⁶ Col. 6, lines 1-2.

activity.” Accordingly, Harrington also fails to disclose the above quoted limitations of amended claim 1. Accordingly, Harrington cannot provide what Ausubel and Jin in combination lack.

The above remarks are also applicable to amended independent claims 28, 32 and 38 which each have a distinguishing analogous to the one fully discussed relative to amended claim 1.

In addition, if an independent claim is nonobvious under 35 U.S.C. § 103 then, any claim depending therefrom is nonobvious and rejection of claims 2-5, 8, 9, 14, 15, 29, 33-37, 39-42 and 45-52 under 35 U.S.C. § 103 is also addressed by the above remarks.

Claims 10-13, 31 and 47-50

Claims 10-13, 31 and 47-50 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Harrington in view of Ausubel in further view of Jin in further view of U.S. PG-Pub no. 2002/0198814 to Bansal et al. (hereinafter Bansal)

Applicants respectfully submit that the rejection of the aforementioned claims under 35 U.S.C. § 103 is defective for the reason that identified dependent claims are not obvious. Specifically, if an independent claim is nonobvious under 35 U.S.C. § 103 then, any claim depending therefrom is nonobvious and rejection of claims 10-13, 31 and 47-50 under 35 U.S.C. § 103 is also addressed by the above remarks.

In summary, Applicants believe that all rejections presented in the Office Action have been fully addressed and withdrawal of these rejections is respectfully requested. Applicants furthermore believe that all claims are now in a condition for allowance, which is earnestly solicited.

CONCLUSION

Applicants respectfully submit that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicants' representative at (408) 278-4046 to facilitate prosecution of this application.

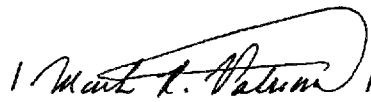
If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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Date 10 September 2009

By



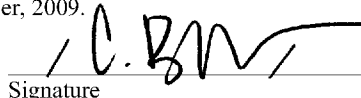
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Chris Bartl

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